



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

January 23, 2014

Mr. Ernie Buttice
1368 Old Milton Highway
Walla Walla, Washington 99362

Re: Applications for Change under Walla Walla River Adjudicated Certificate No.'s 511 and 692

Dear Mr. Buttice:

We received your letter January 22, 2014, asking to withdraw Applications for Change under Walla Walla River Adjudicated Certificate No.'s 511 and 692.

In accordance with your request, your applications for change are withdrawn.

If you have any questions, please contact me at 509 329-3526.

Sincerely,

Dan Tolleson
Water Resources Program
Eastern Regional Office

DT:md

By certified mail: 7011 3500 0001 8621 7460

cc: Merridy Buttice, 2845 Jessica Lane, Walla Walla, WA 99362

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Total Post

MR ERNIE BUTTICE
1368 OLD MILTON HIGHWAY
WALLA WALLA WA 99362

Sent To

Street, Apt.
or PO Box /
City, State, .

PS Form 3800, August 2006

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

MR ERNIE BUTTICE
1368 OLD MILTON HIGHWAY
WALLA WALLA WA 99362

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Ernie Buttice* ☐ Agent ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Certified Mail ☐ Express Mail
- ☐ Registered ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7011 3500 0001 8621 7460

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

RECEIVED

JAN 22 2014

Dan

Department of Ecology
Eastern Regional Office

Please withdraw
Application for
Cotton wood water
rights
(#511 + #692)

Ernie Buttice

~~Ernie~~ Buttice

reject applications for chgs. 511 & 692

DT - 1-22-2014



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

January 7, 2014

Mr. Ernie Buttice
1368 Old Milton Highway
Walla Walla, WA 99362

Re: Applications for Change/Transfer under Certificate No. 692 and 511

Dear Mr. Buttice:

We have received your affidavit of water use for the lands north of Cottonwood Creek. Additional information is needed to determine actual use under the water rights, which is required before the change can be processed. Please provide the following clarifications:

- 1) The signature of the person who signed the affidavit is not readable, what is the name?
- 2) According to the affidavit, the renter used water for nine years. Exactly what years were these lands irrigated by the renter? What was the last year water was applied to the lands north of Cottonwood Creek?
- 3) What sort of irrigation system was utilized?
- 4) According to the affidavit, the renter obtained water from Yellowhawk Creek. What source was used, the old ditch system or some other pump station?
- 5) The authorized source for the above listed water rights is a ditch system that obtains water from Yellowhawk Creek. What was the last year the ditch system was used to supply water for your lands lying north and south of Cottonwood Creek? Specifically, what was the year of last use for each parcel of land?

It appears that by changing the source from Yellowhawk Creek to Cottonwood Creek as requested, the water rights will be reduced, due to the limited water supply of Cottonwood Creek.

You must respond within 30 days of the date of this letter. If you have any questions or need information, please contact me at (509) 329-3526 or dtol461@ecy.wa.gov.

Sincerely,

Dan Tolleson
Water Resources
Spokane Office

DT:ka

cc: Merridy Buttice



RECEIVED

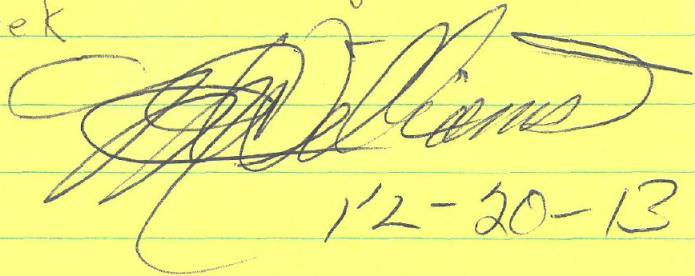
DEC 20 2013

Department of Ecology
Eastern Regional Office

Regarding property
owned by Ernie Buttice

I have leased property
for nine years -

I watered my pasture
and his adjoining pasture
during the summer month
with water from Yellow-
hawk creek


12-20-13

Witness - Merridy Buttice,

witness - Jennifer L. Tuttle

12/20/13



Merridy Buttice
2845 Jessica Ln.
Walla Walla, WA 99362

(509-240-7444)
merridy



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

November 21, 2013

Mr. Ernie Buttice
1368 Old Milton Highway
Walla Walla, WA 99362

Re: Application for Change/Transfer under Certificate No. 692

Dear Mr. Buttice:

As discussed during the field examination, there is some concern that Certificate No. 692, which is located on that part of your lot north of Cottonwood Creek, has been relinquished from non-use. Relinquishment essentially means that the right is no longer valid since it has not been used for five consecutive years without sufficient cause. A review of the available aerial photographs indicates that the land lying north of Cottonwood Creek has not been irrigated in about nine years. No exception to relinquishment has been provided for this right.

Additional information is required to ensure we have all of the available data concerning your proposed project. Please provide the following information:

1. Provide evidence of irrigation from 2004-present for any of your land lying north of Cottonwood Creek.

AND/OR

2. Provide evidence of any exceptions to relinquishment (RCW 90.14.140) during the above listed time frame for the land lying north of Cottonwood Creek.

If we do not receive the requested information within 30 days of the date of this letter, it will be assumed that you have no further data. The application will be processed at that time with the existing information and will in all likelihood result in a denial of the application for change and relinquishment of Certificate No. 692. You may withdraw this application for change at any time. The above listed request for information does not affect the application for change to Certificate No. 511, which is appurtenant to your lands lying south of Cottonwood Creek.

This letter is not a final determination of the water right or administrative order of the Department pursuant to RCW 43.27A.190, nor is issuance of this letter an appealable action pursuant to RCW 43.21B.310. If you fail to respond to this letter or if the showing in response to the above listed questions is inadequate, an appealable action will be issued to you.

If you have any questions or need information please contact me at (509) 329-3526 or dtol461@ecy.wa.gov.

Sincerely,

Dan Tolleson

Dan Tolleson
Water Resources
Spokane Office

DT:ka

Enclosure: Map

By Certified Mail 7011 3500 0001 8621 8818

U.S. Postal Service™

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Certified Fee	
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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

11/21/13
Postmark
Here

Sent To

Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

MR. ERNIE BUTTICE
1368 OLD MILTON HIGHWAY
WALLA WALLA, WA 99362

PS Form 3800, August 2006

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MR. ERNIE BUTTICE
1368 OLD MILTON HIGHWAY
WALLA WALLA, WA 99362

2. Article Number

(Transfer from service label)

7011 3500 0001 8621 8818

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Ernie Buttice* ☐ Agent
☒ Addressee

B. Received by (Printed Name)

Ernie Buttice

C. Date of Delivery

11-22-13

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

Buttice Project
(WWAC 692 & 511)

11/12/2013

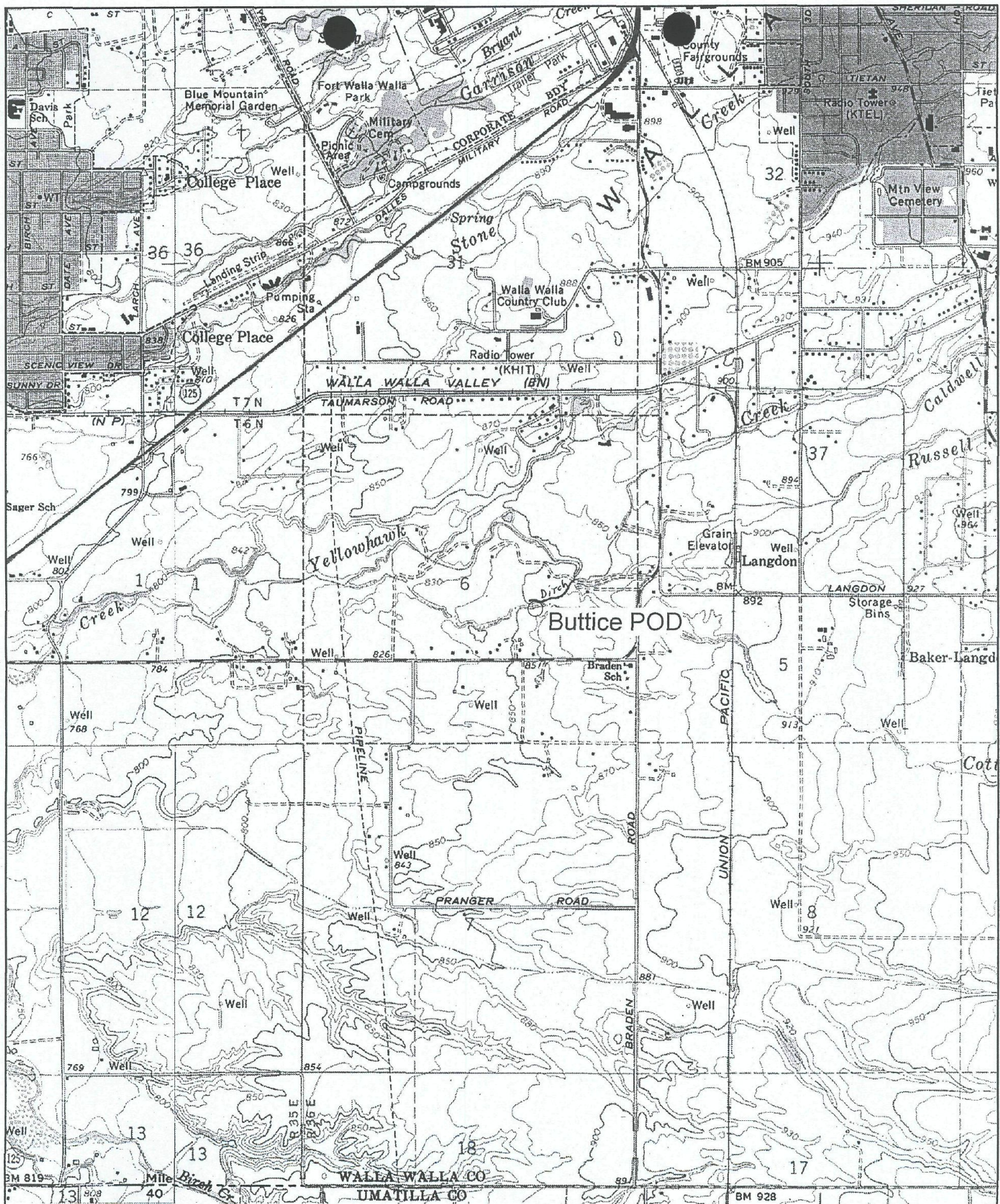
Proposed P.O.D - 10 HP Cent pump with
meter and FishScreen.
Proposed Source is Cotton wood creek
That often goes dry in the
summer and Fall.

Authorized P.O.D - was a ditch from Yellowhawk
That abandoned a few years ago
due to having a hard time
keeping it clear of weeds and
general maintenance. No one
uses the ditch any longer. The
ditch ended adjacent to the
proposed pump station - use same
pump.

Irrigation system - had lines that are supplied
from a main line.

The applicant only irrigates the lands south
of cotton wood creek and typically only uses
it to supplement wheat.

DT



Name: WALLA WALLA
 Date: 11/13/2013
 Scale: 1 inch equals 2000 feet

Location: 046.0261522° N 118.3550006° W WGS84
 Caption:

Markers

Name: Buttice POD

Short Name: BttcPD

Coordinates: 046.0262291° N, 118.3527641° W

Comment: 12-NOV-13 11:21:40AM



State of Washington

DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: 600 Capitol Way N * WA 98501-1091 * (360) 902-2200

Main Office Location: Natural Resources Building * 1111 Washington Street SE * Olympia

September 27, 2013

Attn: Dan Tolleson
Water Resources- Eastern Regional Office
Washington State Department of Ecology
N. 4601 Monroe
Spokane, WA 99205-1295

Re: Walla Walla Water Right POD Changes

Pursuant to Chapter 77.57.020 RCW, WDFW has reviewed the following pending water right applications for their impacts to stream flows that support Washington fish populations:

Application No.	Applicant	Quantity gpm or cfs	Acre- Feet per Year	POD
CS3-*28511	Ernie Buttice			NW SE S6; T6N; R36E WM
CS3-*28692	Ernie Buttice			NE SE S6; T6N; R36E WM

Based on available literature and WDFW databases, the following are the water resource inventory areas and species of fish potentially affected by this application.

Water Source	Name	WRIA	Species
Surface	Yellowhawk Creek	32	CK, RB/SH, Other
Surface	Cottonwood Creek	32	RB/SH, BT, Other
Codes:	CK=Chinook, CO=coho, CH=chum, PK=pink, SO=sockeye, KO=kokanee, RB/SH=rainbow trout/Steelhead, CT=Cutthroat Trout, BT=Dolly Varden/bull trout, EB=eastern brook trout, LMB=largemouth bass, Other=other resident game & non-game fish		

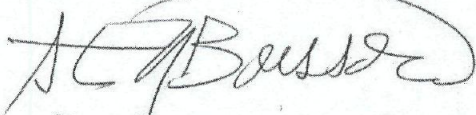
Based on impacts to fish and/or wildlife and the habitat they rely on, and pursuant to Chapter 77.57.020 RCW, WDFW recommends denial of these applications. Moving water rights among adjacent tributaries can have detrimental effects on specific fish stocks.

Yellowhawk Creek is not flow limited. It is the default bypass for the Mill Creek system during the summer. Cottonwood Creek is flow limited and does have steelhead spawning and rearing habitat. While both creeks are inhabited by resident and anadromous fish, Cottonwood Creek is the more sensitive to new diversions.

This letter does not exempt the applicant from compliance with state Hydraulic Code (Chapter 77.55 RCW) and fish screening statutes (RCW 77.57.010, RCW 77.57.040, and RCW 77.57.070), which may be required in order to divert water. Water right applications may trigger review under SEPA. If so, instream flows and impacts due to water diversion/withdrawal should be addressed under SEPA.

Thank you for the opportunity to comment on these pending applications.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Boessow", written over a horizontal line.

Steve Boessow
Water Rights Biologist

cc:

Tolleson, Daniel F. (ECY)

From: Tolleson, Daniel F. (ECY)
Sent: Monday, September 16, 2013 4:31 PM
To: Boessow, Steven N (DFW)
Subject: Walla Walla Changes
Attachments: Lesser 869.pdf; Binde 403.pdf; Buttice 511.pdf; Buttice 692.pdf; Maxson 658.pdf; Lesser 709.pdf

I'm in the process of reviewing all the water right change applications within WRIA 32 to make sure they are complete. Most of the files do not indicated if the application was sent to WDFW for comment. So I will be sending you a copy of each application as the file is updated over the next few months. I will need any comments within in 30 days for the above listed applications. Thank you

Dan Tolleson
Water Resources
4601 N Monroe St
Spokane, WA 99205-1295
Phone: (509) 329-3526
Fax: (509) 329-3529



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

June 17, 2013

COPY

Mr. Ernie Buttice
1368 Old Milton Highway
Walla Walla, Washington 99362

Re: Applications for Change under Walla Walla River Adjudicated Certificate No.'s 511 & 692
WRIA 32 – Walla Walla County

Dear Mr. Buttice:

We have received your Affidavit of Publication notices in connection with the above-numbered applications for change on June 14, 2013.

The water codes require that we take no action on the application until after the expiration of a thirty-day period from the last date of publication. This time period allows concerned citizens to file any protests or objections to your proposed water use.

You will be notified when an examination of your application will be made. Please be advised that you are required to obtain authorizations before you can begin using the water applied for under this application. Please note that no construction or water use should begin before a water right authorization is obtained.

If you have any questions with regards to this letter you may contact me at 509-329-3585.

Sincerely,

Karen Tusa
Water Resources Program
Eastern Regional Office

KT:md

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

NOTICE OF APPLICATIONS
FOR CHANGE/TRANSFER OF
WATER RIGHT UNDER TWO (2)
ADJUDICATED SURFACE WA-
TER CERTIFICATES

TAKE NOTICE:

That Ernie Buttice of Walla
Walla, WA, has made applications
for change/transfer of water right
in order to change the points of
diversion as granted under Walla
Walla Adjudicated Certificates No.
511 and No. 692.

That Certificate No. 511 autho-
rizes the diversion of 0.067 cubic-
foot per second from April 1 to July
1, 0.050 cubic-foot per second from
July 1 to Oct. 1, and 0.100 cubic-
1 for the irrigation of 5 acres.

That Certificate No. 692 au-
thorizes the diversion of 0.063
cubic-foot per second from April
1 to July 1, 0.048 cubic-foot per
second from July 1 to Oct. 1, and
0.096 cubic-foot per second from
Oct. 1 to April 1 for the irrigation of
4.75 acres.

That the authorized point of
diversion is under both Certificates
in from Yellowhawk Creek, tributary
to the Walla Walla river, located
within the NE¼SE¼ of Sec. 6, T. 6
N., R. 36 E.W.M.

That they propose to change
the point of diversion under each
certificate to Cottonwood Creek,
tributary to the Walla Walla river,
within the NW¼SE¼ of Sec. 6, T.
6 N., R. 36 E.W.M.

All within Walla Walla County,
Washington.

Protests or objections to ap-
proval of this application must
include a detailed statement of the
basis for objections; protests must
be accompanied by a fifty-(\$50.00)
dollar recording fee and filed with
the Department of Ecology, at the
address shown below, within thirty
(30) days from
April 4th, 2013.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
WATER RESOURCES PRO-
GRAM - ERO
PO BOX 47611
OLYMPIA, WA 98504-7611

The Times
March 28, April 4, 2013
03-28-a

Proof of Publication

RECEIVED

JUN 14 2013

DEPARTMENT OF ECOLOGY
EASTERN REGIONAL OFFICE

Case No. 201203857 **AFF. OK:** ✓

STATE OF WASHINGTON,)

AFF. EXP.: 5-4-2013

County of Walla Walla)

ss. **CHKD BY:** KT

Johannes E. Matthee, being first duly sworn on oath, deposes and
says: That he is the Publisher of The Times, a weekly newspaper
which has been established, published in the English language, and
circulated continuously as a weekly newspaper in the City of
Waitsburg, and in said County and State, and of general circulation in
said County for more than six (6) months prior to the date of the first
publication of the Notice hereto attached.

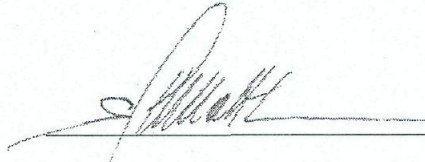
That said newspaper is the official newspaper of the City of
Waitsburg and the County of Walla Walla.

That The Times was, on the 14th day of June, 1955, approved as a
legal newspaper by the Superior Court of said Walla Walla County,
and that the annexed is a true copy of a

Public Notice- 3-28-a
Notice of application

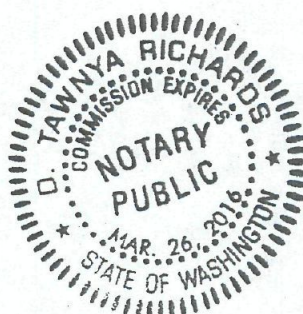
as it appeared in the regular and entire issue of said newspaper itself
and not in a supplement thereof for a period of 2 consecutive weeks,
commencing on the 28th day of March, 2013 and ending on the 4th
day of April 2013, and that said newspaper was regularly distributed
to its subscribers during all of this period.

That the full amount is \$168.40 at the rate of \$6.95 per column inch.

 , Publisher

Subscribed and sworn to before me this
4th day of April, 2013

D. Tawnya Richards
Notary Public in and for the State of Washington,
Residing at Waitsburg, Washington 99361





STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

June 3, 2013

Mr. Ernie Buttice
1368 Old Milton Highway
Walla Walla WA 99362

Dear Mr. Buttice:

Re: Applications for Change under Walla Walla Adjudicated Certificate Nos. 511 and 692
WRIA 33 – Walla Walla County

On March 13, 2013, this office sent you notices for publication of the above referenced applications.

To date, we have not received the original Affidavits of Publication for your applications. If you have not yet published the notices in a newspaper of general circulation in the area of your application, please do so as soon as possible. After publication, the publishing newspaper should provide you with notarized original Affidavits of Publication, which should be forwarded to our office. If you published the notices but have not mailed the Affidavit of Publication to this office, please do so as soon as possible.

Please remember to send the original Affidavits of Publication, not photocopies.

If we do not hear from you within thirty (30) days from the date of this letter, we will assume you are no longer interested in the applications and will reject them with no further notice.

If you have any questions you may contact me at 509-329-3526.

Sincerely,

Dan Tolleson
Water Resources Program

DT:ka



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

COPY

March 13, 2013

Mr. Ernie Buttice
1368 Old Milton Hwy
Walla Walla, WA 99362

Dear Mr. Buttice:

Re: Applications for Change under Surface Water Certificate Nos. 511 and 692
WRIA 32 – Walla Walla County

We are ready to continue processing your applications for change. Your next step is to publish a legal notice. The notice announces your proposed water use to the public and allows interested persons to comment. We have prepared and enclosed the notice for you.

Review Legal Notice Carefully

It is your responsibility to check the notice carefully before having it published. If you find an error, please contact this office for resolution. If we later find an error in your public notice, you may be required to publish an amended notice at your expense.

Publishing Legal Notice

You need to arrange and pay for publishing the legal notice in a newspaper in Walla Walla County.

- Publish the notice in the Union Bulletin **OR** the Waitsburg Times
- These newspapers have a general circulation in the area the water will be used and diverted.
- Ensure that the notice appears once a week for two consecutive weeks.

If your published notice does not meet the above criteria, you will be required to have the notice republished at your expense.

Publication should start within 30 days from the date of this letter.

Next Step

You must request an *Affidavit of Publication* from the newspaper in which your notice appeared. The affidavit must be an original, notarized copy of your published notice. Please forward it to our office as soon as possible.

If you have any questions, you may contact me at 329-3585.

Sincerely,

Karen Tusa
Water Resources Program
Eastern Regional Office

KT:md

Enclosure: Legal Notice



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

NOTICE OF APPLICATIONS FOR CHANGE/TRANSFER OF WATER RIGHT UNDER
TWO (2) ADJUDICATED SURFACE WATER CERTIFICATES

TAKE NOTICE:

That Ernie Buttice of Walla Walla, WA, has made applications for change/transfer of water right in order to change the points of diversion as granted under Walla Walla Adjudicated Certificates No. 511 and No. 692.

That Certificate No. 511 authorizes the diversion of 0.067 cubic-foot per second from April 1 to July 1, 0.050 cubic-foot per second from July 1 to Oct. 1, and 0.100 cubic-foot per second from Oct. 1 to April 1 for the irrigation of 5 acres.

That Certificate No. 692 authorizes the diversion of 0.063 cubic-foot per second from April 1 to July 1, 0.048 cubic-foot per second from July 1 to Oct. 1, and 0.096 cubic-foot per second from Oct. 1 to April 1 for the irrigation of 4.75 acres.

That the authorized point of diversion is under both Certificates is from Yellowhawk Creek, tributary to the Walla Walla river, located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 6, T. 6 N., R. 36 E.W.M.

That they propose to change the point of diversion under each certificate to Cottonwood Creek, tributary to the Walla Walla river, within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 6, T. 6 N., R. 36 E.W.M.

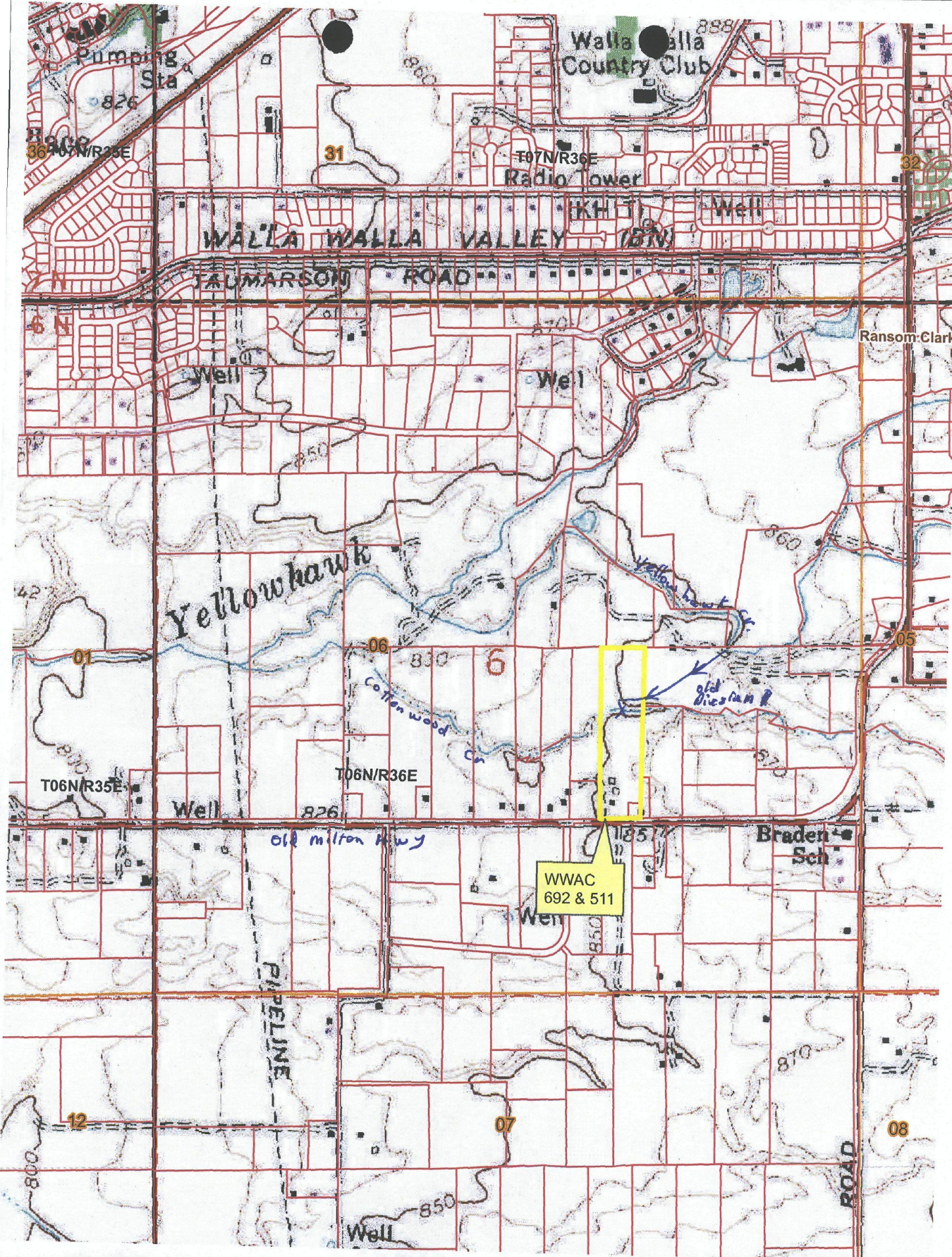
All within Walla Walla County, Washington.

Protests or objections to approval of this application must include a detailed statement of the basis for objections; protests must be accompanied by a fifty-(\$50.00) dollar recording fee and filed with the Department of Ecology, at the address shown below, within thirty (30) days from

(Last date of publication to be entered above by publisher)

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
WATER RESOURCES PROGRAM - ERO
PO BOX 47611
OLYMPIA, WA 98504-7611

NOTICE





06

T06N/R36E

WWAC
692 & 511

1939 photo

07

2011 photo

06

T06N/R35E

Buttice Lot
(yellow dot)

Wilson

WWAC 692 & 511
(blue)

Total
9.5 acres
under
Both Lots

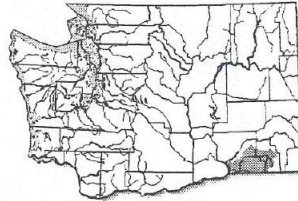
(Buttice 9.28ac
Wilson 0.21ac)



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N. Monroe Street • Spokane, Washington 99205-1295 • (509) 329-3400

April 22, 2004



Your address
is in the
Walla Walla
watershed

Mr. Ernie Buttice
1368 Old Milton Hwy
Walla Walla, Washington 99362

Dear Mr Buttice:

Re: Applications for Change/Transfer under Walla Walla River Adjudicated Certificate No.'s
511 & 692 - WRTS No.'s CS3-*28511J & CS3-*28692J
Walla Walla County - WRIA 33 ³²

This letter is to acknowledge that the Washington State Department of Ecology received your water right applications for change/transfer on March 23, 2004 in our Office.

Please be advised that the filing of an application does not authorize your request. You are required to obtain authorization before you can begin using the change applied for under this application, **please note that no construction or water use should begin before a water right change permit is obtained.** I've enclosed a focus sheet describing the water right change/transfer process for your review.

On December 4, 1997 the Washington State Supreme Court, in Okanogan Wilderness League v. Town of Twisp and Department of Ecology, found that applications for change may be granted only to the extent the water has been historically put to beneficial use, as beneficial use determines the measure of a water right. They also found that the existence and quantification of a water right must be determined, including whether or not the water right has been lost for non-use before the Department can approve a change or transfer of the water right.

When we begin actively evaluating applications in your area, we will prepare a public notice and send it to you with publication instructions. **It will be sometime before we are able to begin working in your area.** In the meantime, please notify Ecology of changes such as address, property ownership, or variations in your proposed water use plans. At some date, you may be asked to provide documentation as to the beneficial use of water under this right. Any

Mr. Ernie Buttice
Application's for Change/Transfer
Page 2
April 22, 2004

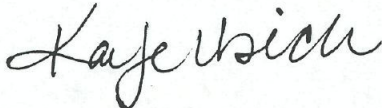
information you can gather such as photographs, maps, power records, receipts, notarized statements, etc. can all be very helpful in determining the actual historic water use.

In some areas of the state, we are continuing to evaluate applications within watersheds where we have previously gathered information and completed watershed assessments. We are also continuing to process water right permit or change applications that are intended to address public health and safety emergencies, the natural environment, or are for nonconsumptive withdrawals. All other applications are grouped by watershed and will be processed according to the date of submittal, and when we have enough information and staff resources to make decisions.

The 1997 Legislature created county conservancy boards under Chapter 90.80 RCW. The Department of Ecology developed a rule to guide the operation of the conservancy boards under Chapter 173-153 WAC. Some counties have established local conservancy boards to process change and transfer applications, subject to Ecology approval. For further information about existing boards or the creation of new conservancy boards, please contact your county or the Eastern Regional Office, Department of Ecology.

If you would like further information on your application, please contact the Water Resources program at 509-329-3400. You may contact me directly at 509-329-3586, my office hours vary, if you reach my voice mail, please leave me a message with the best time to return your call.

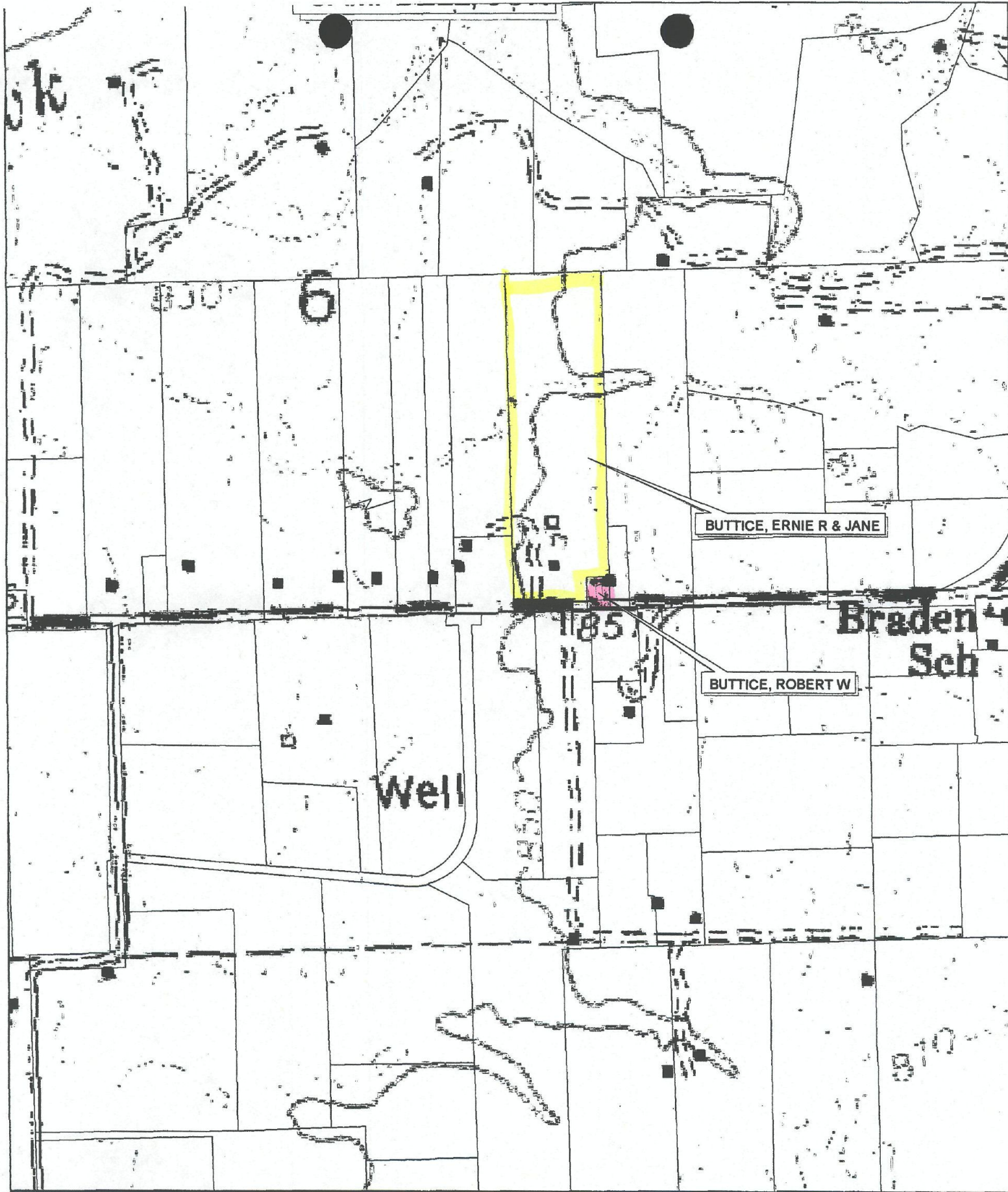
Sincerely,



Katherine A. Yerbich
Water Resources Program
Eastern Regional Office

KAY:ka

cc: Department of Ecology
Walla Walla Field Office
1815 Portland Avenue, Suite No. 1
Walla Walla, Washington 99362
509-527-4394



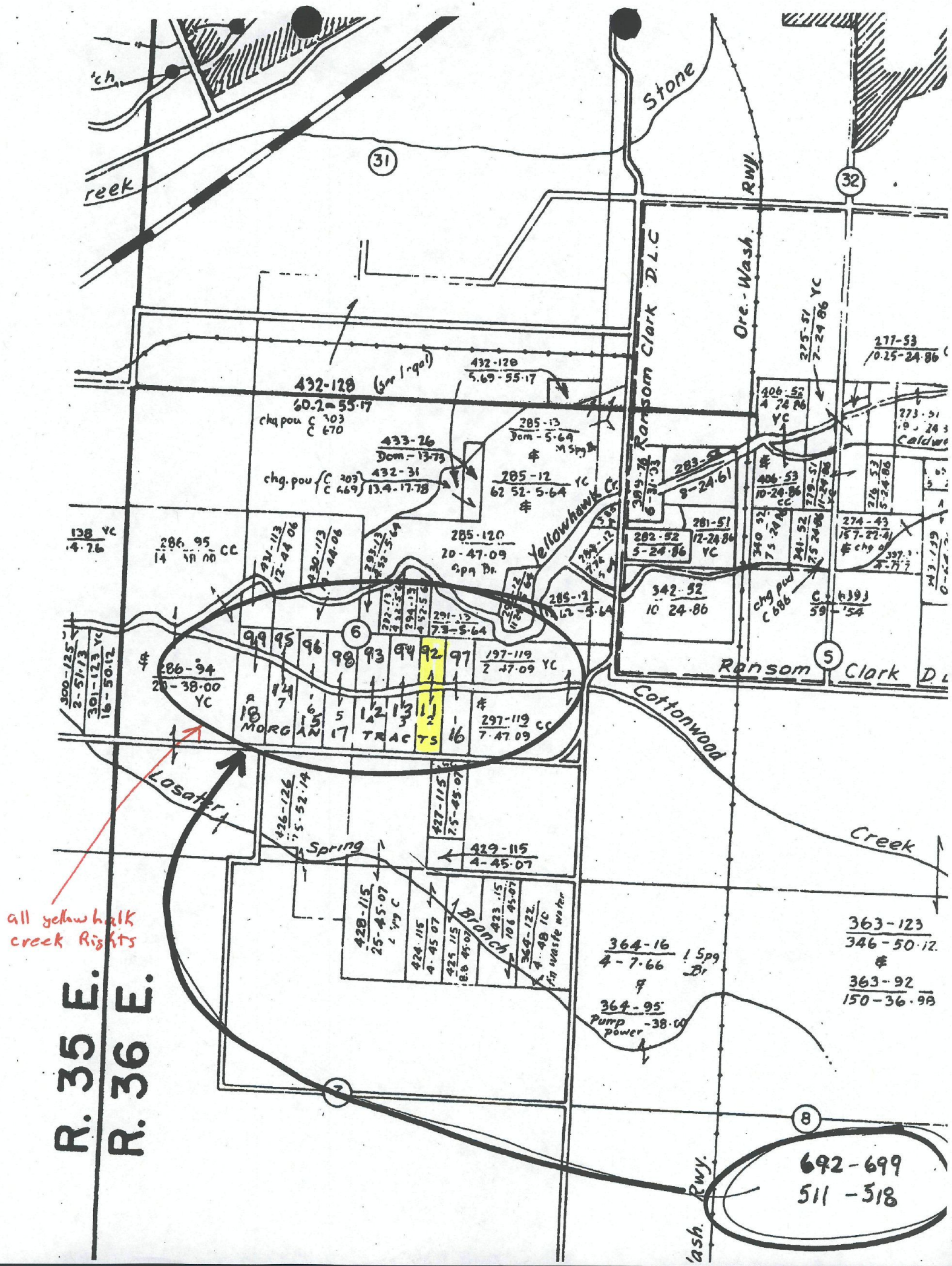
Buttice, E

250 0 250 500 Feet


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Map printed 3/8/2004





Biagi



The Grantors, VELMA MORGAN, IDA MORGAN KIRBY and WILLA MORGAN EVANS, for and in consideration of the sum of FIVE THOUSAND (\$5,000.00) DOLLARS, in hand paid, CONVEY and WARRANT to PIETRO BUTTICE, Grantee, whose wife is Guiseppina (Josephine) Buttice, the following described lands and premises, situate in the County of Walla Walla, State of Washington, to-wit:

Tract No. 2 of Morgan Tracts, according to the Official Plat thereof on this day executed and acknowledged by the said Grantors, and which will be filed for record in the office of the County Auditor of said County at or before the delivery of this conveyance, and is, by reference, made a part hereof, the said Tract No. 2 being ten acres in area and more particularly described by metes and bounds, as follows, to-wit:

Beginning at a point on the east and west center line of Section six (6) Township six (6) North of Range Thirty-six (36) E. W. M. and distant 332.3 feet west from the northeast corner of the northwest quarter of the southeast quarter of said Section six (6); thence west along the said east and west center line of said Section six (6) 331.9 feet; thence South 1 deg. 02 min. West along a line parallel to the east line of said Northwest quarter of the Southeast quarter of said Section Six (6) 1313.5 feet; thence North 89 deg. 42 min. East 331.9 feet; thence North 1 deg. 02 min. East 1311.7 feet to the point of beginning.

Together with the water rights and rights of way appurtenant thereto, the same being a one-eighth interest in the water rights and rights of way over and across the lands of Domenick Loliacono and wife, C. L. Whitney and wife, Angelo Biagi and wife and Pete Biagi from Springs and Yellow Hawk Creek, according to the terms and provisions of the several conveyances thereof now of record in the office of the County Auditor of said County, at page 8 of Volume 160 of Deeds and page 172 of Volume 152 of Deeds, respectively, and, by reference thereto, made a part hereof. The said grantee to bear his proportionate share of the labor and expense necessary to the repair and maintenance of all ditches, pipe lines, intakes, dams, flumes, and other means, whereby the lands hereby conveyed are, in common with all of said Morgan Tracts, supplied with water for irrigation. And the grantors, for the use and benefit of the other of said Morgan Tracts, do hereby reserve a right of way over and across the lands hereby conveyed for an irrigation ditch, as the same is now located on the aforesaid plat. Provided, however, that for the irrigation of the lands hereby conveyed, the said Tract No. 2, in common with Tract No. 1 of said Morgan Tracts, shall, as their proportionate part thereof, be entitled to use for irrigation all of the water from said Springs and Yellow Hawk Creek aforesaid, one day in each four days, exclusive of Sundays, beginning on the first Monday in May of each year. And provided further, that the use of said water for irrigation on Sundays shall belong up to noon on said day, to the tract or tracts having the use thereof on the preceding day, and from and after noon of each Sunday said use shall belong to

Buttice



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

1815 Portland Ave., Suite 1, Walla Walla, Washington 99362 • (509) 527-4394

Ernie Buttice
1368 Old Milton Highway
Walla Walla, WA 99362

March 8, 2004

Re: Surface water rights – WDF&W Cooperative Compliance Program

Dear Mr. Buttice:

Information in this letter will be used by various agencies as a tentative verification of your water rights. Based on the information you have supplied to this office in reference to your application with the Walla Walla County Conservation District for the WDF&W Cooperative Compliance Screen Program and/or WDOE Metering Cost Share Program, it appears that the following water rights include your property within the authorized place of use.

Walla Walla River Adjudication Certificate No. 511

Priority Date: 1897 (Class 35)
Source: Yellowhawk Creek
Quantities: 0.067 cfs (30 gpm) from 4/1 – 7/1; 0.050 cfs (22.5 gpm) from 7/1 – 10/1; 0.100 cfs (45 gpm) from 10/1 – 4/1
Purpose of use: Irrigation of 5.0 acres
Place of use: Tract 2 of Morgan Acres within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6, T6N, R36EWM.
Diversion point: NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 6, T. 6 N., R. 36 E.W.M.

Walla Walla River Adjudication Certificate No. 692

Priority Date: 1908 (Class 46)
Source: Yellowhawk Creek
Quantities: 0.063 cfs (28 gpm) from 4/1 – 7/1; 0.048 cfs (21.5 gpm) from 7/1 – 10/1; 0.096 cfs (43 gpm) from 10/1 – 4/1
Purpose of use: Irrigation of 4.75 acres
Place of use: Tract 2 of Morgan Acres within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6, T6N, R36EWM.
Diversion point: NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 6, T. 6 N., R. 36 E.W.M.

These two water rights are both for Tract 2 of Morgan Acres and, combined, appear to cover most of the ten acre parcel in question. It appears that you own almost all of this

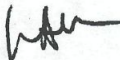
tract, but there is one other small parcel of land also within this place of use (see map). Theoretically, that small parcel might be entitled to a tiny fraction of one of these rights, but that would depend upon historical usage. Assuming that there has been no use of surface water under these rights on that parcel, it appears that you would be entitled to the combined total under both rights. Just add the numbers above together for each season.

The original point of diversion (POD) is from Yellowhawk Creek and is listed in the same quarter section for both rights. That point was about ¼ mile northeast of your property. **If you are now diverting water from a point on your property (Cottonwood Creek), you will need to file two 'applications for change' to change the POD under both rights to the point you are now using.** In the old days, apparently there was a ditch that carried water from Yellowhawk down to your place. These are some of the pertinent facts of the situation, and as always I include the following standard paragraph for your information.

Any water right, or portion of a water right, that is not beneficially used for a period of 5 consecutive years without sufficient cause is subject to relinquishment. Water rights can also be apportioned or withheld by the owner(s) of land to which the water right is appurtenant, record of which may not have been made available to Ecology. Due to lack of specific knowledge regarding the historical use of water rights, Ecology does not guarantee the validity or extent of the water right(s) discussed herein. If you know of information regarding additional water rights on this land which have not been identified herein, please forward that information to this office for review.

I am enclosing 2 Applications for Change in case you do need to change your POD. If you do, I recommend that you stop by our office, and I'll help you fill out the applications. If you have any questions, please feel free to call me anytime at 527-4394.

Sincerely,



Lynn Maser
Water Resources Program
Eastern Region – Walla Walla Field Office

Cc: Nichole Maestretti; (WWCCD, 1501 Business One Circle, Ste. 101, Walla Walla, WA 99362)
Dave Karl; (WDFW, 6 E Cherry, PO Box 456, Walla Walla, WA 99362)